

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7254

BILL NUMBER: HB 1320

DATE PREPARED: Dec 28, 2000

BILL AMENDED:

SUBJECT: Small Claims Jurisdiction.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill specifies the small claims jurisdiction of the tax court, circuit court, superior court, or county court includes cases in which the amount in controversy is not more than \$15,000.

Effective Date: July 1, 2001.

Explanation of State Expenditures: *Small Claims Jurisdiction of the Tax Court:* Increasing the threshold for claims for refunds from the current \$5,000 to \$15,000 would have minimal administrative effects on the Indiana Tax Court.

Explanation of State Revenues: *Small Claims Jurisdiction of the Tax Court:* Increasing the small claims jurisdiction from \$5,000 to \$15,000 would have minimal effect on the fees that are filed in the tax court. The filing fee in the tax court for either small claims or plenary cases (those above the \$5,000 limit) is \$120. If a taxpayer prevails in a complaint that is placed on a small claims docket, the filing fee is refunded to the taxpayer. Consequently, if more cases are filed in small claims court and more taxpayers prevail in the cases filed, it is possible that the State General Fund may experience some minimal revenue loss.

Increasing the Upper Limit for the Marion County Small Claims Courts would likely reduce the revenue that the State General Fund receives from court fees if litigants file certain civil cases in Marion County Small Claims Courts instead of in Marion County's courts of record. In 1984, Marion County's small claims jurisdiction was \$2,000. The General Assembly increased this amount to \$3,000 in 1988 and to \$6,000 in 1990.

Currently, litigants file actions to collect debts of more than \$6,000 as civil plenary actions. The filing fee for these cases is \$100. Of this fee, 70%, or \$70, is deposited in the state General Fund if litigants file these cases in a trial court.

Increasing the Threshold for Circuit, Superior, and County Courts - For counties other than Marion, the change in the threshold from \$3,000 to \$15,000 will reduce revenue to the State General Fund if these actions are filed as small claims cases instead of civil plenary cases. The fee for a civil plenary case is \$100, of which \$70 is deposited into the State General Fund. The fee for a small claims case is \$35, of which \$24.50 is deposited in the State General Fund. Consequently, the State General Fund would receive \$45.50 less for each case that is filed as a small claims case rather than as a civil plenary case.

The number of civil plenary cases with claims between \$3,000 and \$15,000 is not known. Consequently, the potential revenue loss is indeterminable.

Explanation of Local Expenditures: *Increasing the Upper Limit for the Marion County Small Claims Courts* - The change in the threshold to \$15,000 for small claims actions will increase the caseload of the Marion County Small Claims Courts. There are nine townships in Marion County. The small claims court system in Marion County consists of nine divisions based on the township lines. The expenses of the small claims courts in Marion County are paid by each division's respective townships through budget appropriations. This shift will also decrease the number of filings in Marion County's courts of record, potentially reducing the workload of the courts.

Increasing the Threshold for Circuit, Superior, and County Courts - Small claims divisions have very high volume and require considerable staff resources, particularly since the litigants often are not represented by attorneys and do not understand court procedures. Consequently, many courts have several staff people assigned to help litigants with filing claims, giving directions, and answering telephone calls. If the small claims caseload increases, courts with small claims jurisdictions may need to either increase staff or reassign staff from other court functions to accommodate the increased number of litigants.

Explanation of Local Revenues: *Increasing the Upper Limit for the Marion County Small Claims Courts* would reduce revenue to the county general fund in Marion County and increase the fee revenue that would be deposited in the Marion County Small Claims Courts. Currently, civil cases for amounts between \$6,000 and \$15,000 are filed in Marion County courts of record as civil plenary actions. The filing fee is \$100. The county general fund receives \$27, or 27%, of the filing fee. The other \$3, or 3%, is deposited in the general fund of the cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county, or municipal court located in the county. If these cases are instead filed in the Marion County Small Claims Court, the county general fund would receive no filing fee.

As revenue deposited into the county general fund would likely decline, the revenue deposited into the township would increase. The filing fee in the Marion County Small Claims Courts is \$50.50. All of the \$50.50 small claims filing fee is deposited into the township general funds or paid to elected constables and their deputies. No portion of the \$50.50 small claims filing fee is deposited into the state or county general funds.

In CY 1999, a total of 76,002 small claims actions were filed in the Marion County small claims courts, and a total of 12,690 civil plenary actions were filed in the Marion County courts of record. No information is available regarding the number of cases for amounts between \$6,000 and \$15,000.

Increasing the Threshold for Circuit, Superior, and County Courts - For counties other than Marion, the change in the threshold from \$3,000 to \$15,000 will reduce revenue to the local general funds if these actions are filed as small claims cases instead of civil plenary cases. The local general funds receive 30% of the court fees. In the case of civil fees (\$100), they receive \$30, while in small claims cases (\$35), they receive \$10.50.

Consequently, for each case that is filed in small claims court rather than as a civil plenary case, the local governments would receive \$19.50 less.

In all other counties combined, a total of 206,216 small claims actions were filed in courts of record with small claims jurisdiction in 1999. A total of 71,778 civil plenary actions were filed in courts of record in 1999. No information is available regarding the number of cases for amounts between \$3,000 and \$15,000.

Local Agencies Affected: Marion County Small Claims Courts; all other courts of record with small claims jurisdiction.

Information Sources: Judge Thomas Fischer, Indiana Tax Court; 1999 Indiana Judicial Report (Vol. I); Lilia Judson, Executive Director, Division of State Court Administration.